



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**LASHAUNA COLEMAN v. JUDGE JOHNSEN, et al., and
STATE OF ARIZONA
CV-13-0350-SA**

PARTIES:

Petitioner: Lashauna Coleman

Respondent: State of Arizona

FACTS:

A jury convicted Coleman of disorderly conduct. On April 23, 2013, the trial court placed Coleman on probation for two years. Through trial counsel, she filed a notice of appeal. Shortly thereafter, the court appointed the Maricopa County Public Defender's Office to represent Coleman on appeal. On June 18, 2013, Coleman filed a *pro se* pleading in the trial court entitled "Notice of Intent to Proceed as Pro Se Litigant and Request for Records/ Transcript." The trial court took no action on the request.

On June 19, 2013, a Notice of Completion of Record was filed in the court of appeals. Counsel learned that Coleman sought to represent herself on appeal and advised her that she had no right to do so. Counsel persuaded Coleman not to pursue her request until he had a chance to review the record. After review, counsel discussed the case with Coleman; she still wanted to represent herself on appeal. Accordingly, on August 16, 2013, counsel filed a request for Coleman to proceed *pro se* in the court of appeals, citing Article 2, § 24 of the Arizona Constitution.

On September 10, 2013, the court of appeals issued a Decision Order denying Coleman's request to proceed *pro se* on appeal. The court ruled that Coleman had no right under the Arizona Constitution to represent herself on appeal. Even assuming the Arizona Constitution affords a right of self-representation on appeal, the court of appeals found that Coleman had waived the right because the timing of her request was so tardy as "to compromise the execution of an orderly and timely appeals process." The court of appeals found that Coleman had not advised the trial court of her wish to represent herself on appeal.

Counsel for Coleman filed a motion for reconsideration. The motion pointed out the fact that, contrary to the court of appeals' findings, Coleman had informed the trial court of her desire to represent herself on appeal. Further, the motion challenged the court of appeals' legal analysis and presented an argument based on the right to equal protection.

On October 22, 2013, the court of appeals issued a modified Decision Order. Again, the

court found that Coleman had no right under the Arizona Constitution to represent herself on appeal. Even without a constitutional right, however, the court found that self-representation on appeal is not prohibited if the defendant clearly and timely seeks a waiver of the right to be represented by counsel. The court of appeals found that Coleman's request was untimely because her "notice" was not filed before the beginning of the appellate proceedings. Coleman filed it two months after having requested appellate counsel and after counsel had been appointed.

Coleman filed a petition for special action in this Court; the court of appeals stayed the appeal pending the outcome of the petition for special action.

ISSUE:

Whether defendant in a criminal case in Arizona has a constitutional right to pursue an appeal *pro se*?

DEFINITION:

Pro se: A Latin phrase meaning "for oneself" or "on one's own behalf." Proceeding *pro se* means advocating on one's own behalf before a court, rather than being represented by a lawyer.

RELEVANT PROVISIONS:

Article 2, Section 24 of the Arizona Constitution provides:

In criminal prosecutions, the accused shall have the right to appear and defend in person, and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed, and the right to appeal in all cases

<p><i>This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.</i></p>
